IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 620 OF 2006

1. Shri Shiva Tukaram Gauns,
   Residing at Bharoniwada,
   Navelim, Sanquelim,
   Bicholim, Goa.

2. Shri Pundalik Tukaram Gauns,
   Residing at Bharoniwada,
   Navelim, Sanquelim,
   Bicholim, Goa.

3. Shri Dattu Fatti Gauns,
   Residing at Bharoniwada,
   Navelim, Sanquelim,
   Bnicholim, Goa.

4. Shri Ravindra Raghuvir Gauns,
   Residing at Kotharbag,
   Navelim, Sanquelim,
   Bicholim, Goa.

5. Smt. Anant Vithu Gauns,
   Residing at Bharoniwada,
   Navelim, Sanquelim,
   Bicholim, Goa.

6. Shri Ramchandra Soma Gauns,
   Residing at Bharoniwada,
   Navelim, Sanquelim,
   Biocholim, Goa. ... Petitioners

versus

1. The State of Goa,
   Through Chief Secretary,
   Sercretariat, Porvorim,
   Goa.

2. The Deputy Collector(L.A.)
Office of Collector,
North Goa District,
Government of Goa,
Panaji, Goa.

3. The Under Secretary(Revenue)
Revenue Department,
Government of Goa,
Panaji, Goa.

4. Directorate of Sports
& Youth Affairs,
Government of Goa,
Campal, Panaji, Goa.

5. Shri Gurudas Prabhakar
Gawas, Bharoniwada,
Navelim, Sanquelim,
Bicholim, Goa. ... Respondents

Mr. A. D. Bhobe, Advocate for the Petitioner.

Mr. S. S. Kantak, Advocate General with Ms. R. Chodankar, Additional Government Advocate for the Respondent Nos. 1 to 4.

Mr. M. S. Sonak, Advocate for the Respondent No.5.

CORAM : S. A. BOBDE &
N. A. BRITTO, JJ.

DATE : 25TH APRIL, 2007.

ORAL JUDGMENT

Rule returnable forthwith. Heard by consent.

2. The Petitioner has challenged the acquisition of land under Notifications dated 7-10-2005 and 26-10-2006 for acquisition of area of 20,200 sq. meters for the purpose of a Village playground.

3. The main contention of the learned Counsel for the Petitioner is that the present acquisition for a Village playground is wholly unnecessary since an area of 16,140 sq. meters was earlier acquired for the Village playground by the Director of Sports and that playground is next to the land in question. The learned Counsel relies on an earlier order in Writ Petition No. 249 of 2006 passed on 21-8-2006 by which this Court noted that the State withdrew the report under Section 5-A of the Land Acquisition Act and directed that the parties would accord a fresh opportunity of hearing for consideration of their objection under Section 5-A of the Land Acquisition Act. According to the learned Counsel inspite of the aforesaid order this has not been done and the report does not properly consider their objection that the land acquired earlier meets the requirement of the Village for a playground.

4. We have gone through the report with the assistance of the learned Counsel for the Petitioner and we find that the objection is squarely considered by the Collector, North Goa. In fact, in paragraph 6, the Collector has made his observations on the acquisition of 20,200 sq. meters for the purposes of a Village playground which would include a 400 meters Athletic Track and also other major and minor area playgrounds for Football, Cricket, Kabbadi, Volleyball, etc. It appears that there is also a proposal to construct a

Multipurpose Indoor Hall to promote indoor activities like Badminton, Table Tennis, Indoor Boxing and to set up a special gymnasium. The Collector has observed that this plan would need a lot of land and that any loss to the owners would not be significant in comparison to the benefit of the public at large and the State in general.

5. In these circumstances, it is not possible to accept the Petitioner's contention that the Collector has not given reasons why the earlier land acquired for the existing playground is not sufficient.

6. The next contention on behalf of the Petitioner is that the acquisition is vitiated by mala fides since the acquisition is eligibly made at the instance of Respondent No.5 who is the North Goa Vice President of the Congress party. According to the learned Counsel, the Petitioner worked against the Respondent No.5 in the last Election. Therefore, after the party in power changed, the Respondent No.5 has caused this acquisition to be initiated. We find no merit in this contention in view of the admitted fact fairly stated by the learned Counsel for the Petitioner that there was an earlier proposal for acquisition of this very land in the year 2002. However, that Notification lapsed. Therefore, the Government issued the present Notification. Admittedly, the Congress party came into power in June, 2005. This proposal for acquisition of the land was initially made in the year 2002 when another party was in power. We see no merit in the submission of mala fides. For the reasons stated above,

we find no reason to interfere. The Writ Petition is accordingly disposed of.

S. A. BOBDE, J.

N. A. BRITTO, J.

RD